Cr A 951/95 — DB (2)

XII-189 / (Jail)
C. J. P. R. 11/94/2,000

CF0000058049

High Court of Madhya Pradesh
JABALPUR
25 JUL 1995
Reg. No. 346
Receipt Clerk
High Court, Jabalpur

APPEAL OF PRISONER

No. 2372/47 Name भगतलाल Division Bench (Criminal)

Father's name अंजोर भारव खाकिन उरना आना तो स्व

Residence बिलासपुर (म.प्र.) Age 28 वर्ष

Sentenced to आजीवन कारावास On 8 जून 1995

Under section 302 भा.दं.सं. by IV अति सत्र न्यायाधीश बिलासपुर (म.प्र.)

It is explained to the prisoner that if he states or wishes to be represented by legal practitioner the Appellate Court will not proceed with the base for seven days unless the legal practitioner appears. If the legal practitioner does not appear within seven days he may not heard at all. If the prisoner states that he does not wish to be represented by legal practitioner the court may proceed at once with the case and will not be obliged to give a hearing to any legal practitioner who should appear.

1 Date of Application for copy of Judgement 8/6/95

2 Date on which copy received 10/6/95

3 Date on which Appeal sent 6/95

4 Whether the prisoner wishes to be represented or ~~not~~ – Yes / No

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No. 2372/47 Name भगतलाल अदि अंजोर भारव

Confined in केन्द्रीय Jail रायपुर (म.प्र.)

No. 346/Law/ Dated 199 5 24/6/95

Forwarded to the ~~CHIEF JUDICIAL MAGISTRATE~~ अति रिक्त सेशन्स जज/अपर सत्र न्यायाधीश/ जिला मजिस्ट्रेट (म.प्र.)

gather which a copy of judgement or order passed in the case for favour of transmission to the proper Appellate Court.

संलग्न नि.नि.मजिस्ट्रियल
सत्र प्र.कि. 239/94

Superintendent
केन्द्रीय जेल, रायपुर (म.प्र.)
Jail

Date of receipt in office 8/6/95 to 24/6

Date of receipt record to accompany the With intimation

Memo of Appeal to the Appellate court

No Dated 199

Forwarded to the

Date of receipt in Appellate Court

(P. T. O.)

(16)

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक CRA No. 951 सन् 1995

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH: -
HON'BLE SHRI L.C. BHADOO AND
HON'BLE SHRI DHIRENDRA MISHRA, JJ.

8-2-2006

Shri Sushil Dubey, counsel for the appellant.

Shri U.N.S. Deo, Additional Public Prosecutor for the State/respondent.

Oral judgment dictated on *Dais*.

PER L.C. BHADOO,J

By this appeal, the accused/appellant has questioned the legality and correctness of the judgment of conviction and order of sentence dated 8th June 1995 passed by learned 1st Additional Sessions Judge, Bilaspur in S.T. No.239/94 whereby learned Additional Sessions Judge after holding the accused/appellant guilty for commission of offence under Section 302 of the I.P.C., sentenced him to undergo imprisonment for life.

The case of the prosecution is that in the intervening night of 3rd/4th April 1994 accused Madan Lal and his wife Keertan Bai (since deceased) were sleeping in a room in the house of his maternal uncle Budgaram (PW-1) after taking dinner. PW-2 Thatharin Bai was sleeping in the corridor in front of the room in which the accused and his wife were sleeping, whereas, PW-1 Budgaram was sleeping in another room. In between 12 p.m. to 1 a.m., Thatharin Bai heard the sound of thud in the room where the accused and his wife were sleeping, on which she asked her husband PW-1 Budgaram that some sound is coming from the room, on which Budgaram called the accused, on which he half opened the door of the room. Budgaram saw that the accused has injured his wife by assaulting her with axe. Seeing this he was taken aback and

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the accused closed the door from inside. Budgaram asked the accused to open the door. He raised cries but he did not open the door. However, hearing the shouts of Budgaram, PW-3 Kunden Lal, PW-4 Nanki Das, PW-9 Ganjha, Heera Lal, Kotwar Shyam Das and other villagers came. They also made an attempt to open the door but the accused did not open the door and said that he would not open the door, on which PW-3 Kunden Lal made a telephonic call to the police station, on which PW-7 Chandrama Singh Rajput and PW-5 B.R. Jangde came and they asked the accused to come out on which he came out and he was arrested. By that time, Keertan Bai was already dead, therefore, Panchanama Ex.-P/6 was prepared. The dead body was photographed and snaps of photographs (Ex.-P/1 to P/4) were taken. The accused gave a memorandum (Ex.-P/7) and in pursuance of that he produced blood stained axe which was taken into possession under Ex.-P/8. The blood stained soil and plain soil were taken into possession under Ex.-P/9. Shirt and towel of the accused was taken into possession under Ex.-P/10. Dehati Nalishi Ex.-P/5 was recorded and based on that crime No.0/94 under Section 302 of the I.P.C. was registered. The dead body of Keertan Bai was sent for the postmortem examination to the Primary Health Centre, Korba, where Dr. Bhim Prasad Kanwar (PW-6) conducted the postmortem and prepared the postmortem report Ex.-P/19. As many as 14 injuries were found on the body of the deceased. The blood stained articles were sent for chemical examination to the Forensic Science Laboratory from where report was received. The body of the accused was also examined by Dr. Bhim Prasad Kanwar (PW-6) and on the body of the accused injuries were found. The site plan (Ex.-P/14) of the place of occurrence was prepared by Shri B.R. Jangde (PW-5).

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —3—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

After completion of investigation, charge sheet was filed against the accused in the Court of Judicial Magistrate, 1st Class, Korba, who in turn committed the case to the Sessions Judge, Bilaspur from where learned 1st Additional Sessions Judge, Bilaspur received the case on transfer.

The prosecution in order to establish the charge against the accused examined 9 witnesses. Statement of the accused was recorded under Section 313 of the Cr.P.C. in which he replied that witnesses are true and he does not want to say anything. Learned Additional Sessions Judge after hearing Additional Public Prosecutor and counsel for the accused convicted and sentenced the accused as mentioned in para-1 of this judgment.

As far as involvement of the accused/appellant in crime in question is concerned, PW-1 Budgaram, maternal uncle of the accused in whose house the accused was sleeping in the fateful night, has stated that in the night in between 12 p.m. to 1 a.m. his wife came and asked him to wake up and said that some sound is coming from the room where the accused and his wife were sleeping. On which he went towards the room and saw that the accused was attacking his wife with axe. On seeing this, he ~~entered and~~ started raising shouts. The accused closed the door from inside. After hearing his shouts, Heera Lal, Nanki Ram, and Gajha came to his house. Thereafter, Sarpanch and Kotwar also came. The persons asked the accused to open the door but he refused to open the door on which Sarpanch Kunden Lal telephoned the police. Thereafter, in the morning police came. The police got opened the door and arrested the accused. By that time, Keertan Bai was already dead. There were injuries on her head, chest and leg. She was lying in a pool of blood on the ground. Four photographs (Ex.-P/1 to Ex.-P/4) were taken. Panchanama Ex.-P/6 of the dead body was

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मामला क्रमांक ..... सन् 200

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

prepared. Similar is the evidence of PW-2 Thatharin Bai who has corroborated the evidence of PW-1 and who was sleeping in the corridor in front of the room where the accused and his wife were sleeping. PW-3 Kunden Lal has also corroborated the evidence of PW-1 Budgaram. PW-4 Nanki Das has also corroborated the evidence of PW-1 Budgaram. PW-5 B.R. Jangde, sub inspector, has stated that on 4-4-94 at about 5.50 a.m. Chandrama Singh, sub inspector, received a telephonic call about the incident. He was directed to go to the place and he recorded Dehati Nalishi Ex.-P/5 as per the information given by Budgaram. By the time he reached, the door was already opened and accused was already taken into custody by the Assistant Sub Inspector. The above evidence is corroborated by the medical evidence of Dr. Bhim Prasad Kanwar (PW-6) who has stated that as many as 14 injuries were present on the body of the deceased. Brain membrane was lacerated. All the injuries were ante-mortem in nature and caused by hard and blunt object. The injuries were sufficient in the ordinary course of nature to cause the death. PW-7 Chandrama Singh Rajput has stated that he on the information given by the accused took into possession the axe under Ex.-P/7. In view of the above evidence, it is established that the accused was author of the crime in question as he and his wife were sleeping in the room and PW-2 Thatharin Bai was sleeping in the corridor. PW-1 Budgaram saw the accused assaulting his wife with axe, thereafter he closed the door from inside. By the time police came, he opened the door and Keertan Bai was found dead inside the room.

Learned counsel for the accused/appellant argued that there is nothing on record which shows that the accused had any intention to cause death of the deceased.

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -5-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
Barve	But, we do not find any substance in this argument for the reason that the accused caused as many as 14 injuries on almost all parts of the body and also on vital part of the body i.e. head, as a result of which she died instantaneously, rather this is a brutal and merciless murder committed by the accused. The intention of the accused to cause death of the deceased was writ large. In the result, we do not find any substance in this appeal, same is liable to be dismissed and it is hereby dismissed. **Sd/-** **L.C. Bhadoo** **Judge**	**Sd/-** **Dhirendra Mishra** **Judge**

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